

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

BEFORE THE HONORABLE F. DENNIS SAYLOR, IV  
UNITED STATES DISTRICT JUDGE

## PRETRIAL CONFERENCE

November 5, 2014  
1:48 p.m.

John J. Moakley United States Courthouse  
Courthouse Way  
Boston, Massachusetts 02210

Kelly Mortellite, RMR, CRR  
Official Court Reporter  
John J. Moakley United States Courthouse  
One Courthouse Way, Room 5200  
Boston, Massachusetts 02210  
mortellite@gmail.com

1 APPEARANCES:

2 On Behalf of the Government:

3 AUSA John A. Wortmann, Jr.

United States Attorney's Office

John Joseph Moakley Federal Courthouse

1 Courthouse Way

Boston, MA 02110

617-748-3207

john.wortmann@usdoj.gov

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7 On Behalf of the Defendant:

8 Paul J. Garrity, Esq.

14 Londonderry Road

Londonderry, NH 03053

603-434-4106

9 garritylaw@myfairpoint.net

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## 1 P R O C E E D I N G S

2 THE CLERK: This is criminal matter 13-10048, *United*  
3 *States v. King Belin.* Court is now in session. Could you  
4 please identify yourselves for the record.

5 MR. WORTMANN: Your Honor, John Wortmann for the  
6 United States. Good afternoon.

7 THE COURT: Good afternoon.

8 MR. GARRITY: Paul Garrity for Mr. Belin. Good  
9 afternoon, Your Honor.

01:48 10 THE COURT: All right. Good afternoon. We are  
11 conferring because we have some scheduling issues with the  
12 trial date that we're trying to work out. It's presently set  
13 for Monday morning, January 5, 2015.

14 Mr. Wortmann, do you have anything to report?

15 MR. WORTMANN: Your Honor, I do. I've spoken to  
16 Mr. Griffin a couple of times over the last few days. He's on  
17 the other case. He tells me that he's going to file a motion  
18 for more time because he just came into the case. So my guess  
19 is that that will not go forward, but I can't give you -- I  
01:48 20 have no order yet. And if there's any chance that -- I think  
21 we're talking about three days here, if there's any chance that  
22 we could do it in December, if you had any time.

23 THE COURT: All right. In the meantime, I have two  
24 defendants scheduled to go to trial on December 15 in a case  
25 that's expected to last about four days. It is expected, or,

1 you know, there's a more than 50 percent chance but less than  
2 100 percent chance both of them are going to plead, but it  
3 hasn't happened yet. One of the counsel is on trial I think in  
4 front of Judge Casper and is not regularly meeting with the  
5 client and trying to move that forward.

6 To add another layer of complication in all of this,  
7 January 5 is the day that jury selection begins in *United*  
8 *States v. Tsarnaev*, and it's going to be a madhouse here in the  
9 courthouse, particularly with jury impanelments, although we're  
01:49 10 working on trying to figure out a way to keep the cases  
11 scheduled for trial out of that maelstrom.

12 So my choices, as I see them -- I am in Washington I  
13 believe the week of December 8, which is probably too late of a  
14 commitment to move. December 1 doesn't work very well for me.

15 Does one of you have a conflict?

16 MR. GARRITY: Yes.

17 THE COURT: You have a conflict on December 1.  
18 December 22 bumps us into Christmas. December 29 has the  
19 problem with the holidays. January 5 is where we are. I have,  
01:50 20 I think, another week in Washington, maybe January 12.

21 Is that right, Craig?

22 THE CLERK: Yes, Judge.

23 THE COURT: I'm supposed to be out part of the week of  
24 January 19, and I start a long patent trial on January 26.

25 So either I could double-book this on December 15 and

1 hope that the other case pleads or even bump that case if this  
2 has a lower number. I could try to impanel this case on, let's  
3 say, Thursday, December 18 or Friday the 19th and try to  
4 squeeze it in as early as three days before Christmas. I'd  
5 rather not have a jury deliberating on Christmas Eve.

6 I'm just saying what the options are here. I could  
7 try to trump the January 5 case that you have, Mr. Wortmann, if  
8 it doesn't plead out, if this case is lower, or I could assign  
9 it to another judge or put it back in the hopper if we have  
01:51 10 speedy trial issues or try at the end of March or somewhere in  
11 that timeframe, whenever my patent case is over. Or I could  
12 postpone this decision another week and see where we are.

13 MR. WORTMANN: My sense is that this case is probably  
14 older because it's been around. I don't have the number in  
15 front of me off the top of my head.

16 There's another option. That is, what if you were to  
17 impanel two juries on the 15th and whoever is later -- we start  
18 the first case, and whoever goes later just starts when the  
19 other one is done?

01:52 20 THE COURT: I suppose that's possible.

21 MR. WORTMANN: But I guess if I had my druthers as to  
22 all of those options and we're the older case, on December 15,  
23 I'd just as soon do it on December 15 and get it over with. I  
24 believe this case will be -- it shouldn't be more than two or  
25 three days. I've filed all the trial documents already. The

1 21-day letter has been sent. Exhibit/witness lists have been  
2 filed. Jury instructions have been filed. So I think we're  
3 pretty much ready to go.

4 THE COURT: Mr. Garrity, what is your view?

5 MR. GARRITY: Judge, December 15 I've got a number of  
6 conflicts, but they're nothing that I can't move. So December  
7 15 could work.

8 THE COURT: And January 5 works for you as well, I  
9 take it?

01:53 10 MR. GARRITY: It does. But beyond that, Judge, I run  
11 into a number of trial conflicts and wouldn't be available  
12 until sometime in March.

13 THE COURT: All right. Mr. Wortmann, I forgot to ask,  
14 what is the January 5 case? What's the name of it?

15 MR. WORTMANN: This is --

16 THE COURT: I understand. It's in front of Judge  
17 Young; is that right?

18 MR. WORTMANN: Yes, it is in front of Judge Young.

19 THE COURT: Mr. Nicewicz can look that up.

01:53 20 MR. WORTMANN: I'm embarrassed to say that --

21 THE COURT: Does Tyrone Shepard ring a bell?

22 MR. WORTMANN: No. One of the defendant's name is  
23 Julio Burton, the second defendant in this case.

24 THE COURT: Julio Burton. And what is the number of  
25 the case, Craig?

1                   THE CLERK: 13-10281.

2                   THE COURT: Okay. So this is a lower number. And  
3 it's Judge Young?

4                   THE CLERK: Correct.

5                   THE COURT: All right. Why don't we do this. Let's  
6 proceed on the assumption this case is going to be impaneled on  
7 December 15 and that we're going to try it before Christmas. I  
8 think I need to keep a close eye on all the different moving  
9 parts here as a practical matter.

01:54 10                   And I'm going to leave the week of January 5 open for  
11 this case as well as my backup plan. I'm going to try to talk  
12 to Judge Young and try to see realistically what my options  
13 are, but I think, in fairness, I think you ought to be prepared  
14 to impanel on the 15th of December until I say otherwise.

15                   MR. WORTMANN: Okay.

16                   THE COURT: So with that assumption, why don't I put  
17 in the calendar a pretrial conference. Can I see the calendar?

18                   How about Thursday, December 11, at 11:30 for a  
19 pretrial conference? Does that work?

01:55 20                   MR. WORTMANN: Yeah, it works for me. The other  
21 defendant's name is Reginald Roscoe.

22                   MR. GARRITY: Sorry. Is there any possibility on the  
23 11th to do it in the afternoon? I've got a District Court  
24 bench trial in the morning.

25                   THE COURT: I have a sentencing and 2:00, a sentencing

1 at 3:00. I can do it at 4:00.

2 MR. GARRITY: That would be fine, if it works for  
3 Mr. Wortmann.

4 MR. WORTMANN: Sure.

5 THE COURT: 4:00 on Thursday, December 11. And does  
6 either party expect that there will be significant motions in  
7 limine or any other significant pretrial litigation?

8 MR. GARRITY: I don't think so. We just started to  
9 talk about that, Judge, as we walked in here, but my  
01:56 10 expectation is we can come to some sort of agreement. If we  
11 can't, I'll try to file something as soon as possible.

12 THE COURT: Why don't I set a deadline for -- I'll set  
13 a deadline of Wednesday, December 3, for filing of motions in  
14 limine, exhibit lists, witness lists, proposed jury  
15 instructions and proposed voir dire questions, and oppositions  
16 to motions in limine should be filed by December 9. Will that  
17 work?

18 MR. WORTMANN: Yes.

19 MR. GARRITY: It should, yes.

01:57 20 THE COURT: Again, all of that is subject to change.  
21 I think, as a backstop, let me set this for a further  
22 conference, which I may or may not cancel. We may be able to  
23 do this without a conference, but just to be on the safe side,  
24 Wednesday, November 12 at 10:10 in the morning.

25 MR. WORTMANN: Sure.

1                   THE COURT: Again, I permit telephone appearances.

2                   MR. GARRITY: What time will that be, Judge?

3                   THE COURT: 10:10 in the morning.

4                   MR. GARRITY: Thank you.

5                   THE COURT: I'm just going to keep talking to the  
6 players and to the other judge, and I think one way or the  
7 other, this has the lowest number. It should be tried either  
8 the week of December 15 or January 5. Right now it's on the  
9 schedule for December 15. Unless I move it, that's what we'll  
01:58 10 do.

11                  Mr. Nicewicz informs me that Judge Young has Roscoe on  
12 for January 12. Has the case been settled?

13                  MR. WORTMANN: I have it on the 5th, your Honor.

14                  THE COURT: For the 5th?

15                  MR. WORTMANN: I have it on the 5th. If it's on for  
16 the 12th, it's on for the 12th.

17                  THE COURT: What does the docket say?

18                  THE CLERK: It says jury trial set for January 12,  
19 with a pretrial December 15.

01:58 20                  THE COURT: I'm sorry. Is that Burton and --

21                  MR. WORTMANN: Mr. Burton has already pled, your  
22 Honor.

23                  THE COURT: Just Roscoe. Supposedly, the electronic  
24 docket says January 12 --

25                  MR. WORTMANN: I'm inclined to believe the electronic

1 docket --

2 THE COURT: I think that solves our problems. Is  
3 there any way to confirm that?

4 THE CLERK: I could call Jennifer later.

5 THE COURT: Why don't we do this. If that works, if  
6 it turns out that is starting on the 12th, I assume the 5th  
7 will work for you.

8 MR. WORTMANN: Yeah. I have two trials two weeks in a  
9 row, not ideal, but I'll survive.

01:59 10 THE COURT: Not optimal. And Mr. Garrity, that works  
11 for you?

12 MR. GARRITY: It does, Your Honor.

13 THE COURT: If I wind up moving it back to the 5th, I  
14 will set a reasonable schedule for pretrial filings that will  
15 take into account the holidays. I'll make it early just to  
16 free up your holidays, and I think I'm going to leave the  
17 November 12 conference in the calendar, but assuming we can  
18 sort all of this out, if January 5 is free, we don't need to  
19 confer again on November 12.

02:00 20 MR. WORTMANN: Yes. And I apologize for the  
21 confusion, Your Honor.

22 THE COURT: That's all right. I don't know whether  
23 you're right or not.

24 MR. WORTMANN: I suspect I'm probably wrong.

25 THE COURT: We'll see. Thank you, gentleman.

1 Anything else? Has the time been excluded until January 5?

2 MR. WORTMANN: It has, Your Honor.

3 MR. GARRITY: Thank you.

4 (Adjourned, 2:00 p.m.)

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2 CERTIFICATE OF OFFICIAL REPORTER  
34 I, Kelly Mortellite, Registered Merit Reporter  
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1415 /s/ Kelly Mortellite  
16 \_\_\_\_\_  
17 Kelly Mortellite, RMR, CRR  
18 Official Court Reporter  
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